

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EVERETTE WEAVER,

Plaintiff,

-against-

SARA Z. BORISKIN, ESQ, GENA GOLDBERGER,
ESQ, CITIMORTGAGE, INC., KIM KRAKOVIAK,
BRANDON D. LEWIS, PATRICK J. HACKETT,
ESQ, ALEXANDER KLESTOV, SCOTT B.
GROUP, ESQ, KATHLEEN R. FITZPATRICK, ESQ
& NINA KHAIMOVA, ESQ,

Defendants.
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16-CV-688 (CBA) (ST)

**DECLARATION IN
SUPPORT OF MOTION TO
DISMISS**

Christopher Virga, an attorney duly admitted to practice law in the Court of the State of New York and admitted to the United States District Court for the Eastern District of New York, declares the following under penalties of perjury:

1. I am an associate of the firm of Berkman, Henoch, Peterson, Peddy & Fenchel, P.C., attorneys for Defendants Sara Z. Boriskin, Esq. and Geena Goldberger, Esq. ("Defendants") in connection with the above-captioned action and am fully familiar with the facts and circumstances hereinafter set forth.

2. This Declaration is submitted in support of Defendants' Motion to Dismiss, brought pursuant to Federal Rules of Civil Procedure on the grounds that *pro-se* Plaintiff Everett Weaver's Complaint (i) was filed in contravention of a Prior Order of this Court; (ii) is barred by the applicable statute of limitations on each claim contained therein; (iii) fails to allege facts sufficient to support the relief requested pursuant to FRCP 12(b)(6); and (iv) fails to state fraud claims with sufficient particularity pursuant to FRCP 9(b).

3. Attached hereto as ***Exhibit "A"*** is a true and accurate copy of the Foreclosure Summons & Complaint filed in Kings County Supreme Court on July 22, 2009.

4. Attached hereto as ***Exhibit "B"*** is a true and accurate copy of the Assignment of Mortgage recorded in the Kings County City Register's Office on August 3, 2009.

5. Attached hereto as ***Exhibit "C"*** is a true and accurate copy of the Consent to Change Attorney filed in the Kings County Clerk's Office on November 6, 2014, and the Notice of Appearance as Co-Counsel filed in the Kings County Clerk's Office on November 20, 2014.

7. Attached hereto as ***Exhibit "D"*** is a true and accurate copy of the Motion filed by Everett Weaver dated November 20, 2014.

8. Attached hereto as ***Exhibit "E"*** is a true and accurate copy of the Summons & Complaint filed by Everett Weaver in the United States District Court for the Southern District of New York on June 16, 2009.

10. Attached hereto as ***Exhibit "F"*** is a true and accurate copy of the Transcript of the Decision and Order of the Hon. Stephen C. Robinson dated August 13, 2009.

11. Attached hereto as ***Exhibit "G"*** is a true and accurate copy of a PACER Search showing the cases in Everett Weaver is the Plaintiff.

12. Attached hereto as ***Exhibit "H"*** is a true and accurate copy of the Preclusion Orders and Judgment.

13. Attached hereto as ***Exhibit "I"*** is a true and accurate copy of Plaintiff's Amended Summons & Complaint herein.

15. Attached hereto as ***Exhibit "J"*** is a true and accurate copy of the Note & Mortgage dated August 28, 2008.

